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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,000	08/02/2000	Michael L. Blomquist	9015.135US01	8019

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EXAMINER

KALINOWSKI, ALEXANDER G

ART UNIT PAPER NUMBER

3626

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/631,000

Applicant(s)
Blomquist

Examiner
Alexander Kalinowski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 2, 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.

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DETAILED ACTION

1. Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, and 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Pat. No. 5,788,669 in view of Ford et al., Pat. No. 6,269,340 (hereinafter Ford).

As to claim 1, Peterson discloses a method for creating a library of pump data on a computer having a database, each pump program, the pump data being organized into sets of program data, each set of program data being available for batch downloading to a medical pump and including data items for controlling operation of the medical pump, the method comprising: the plurality of data items forming a set of program data, at least some of the data items establishing parameters for controlling operation of a medical pump (col. 4, lines 10-18 and lines 36-53); and

Peterson does not explicitly disclose entering a plurality of data items into a database on the computer, and

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assigning at least one data key to the set of program data, the data key identifying the set of program data.

However, Ford discloses entering a plurality of data items into a database on the computer, and assigning at least one data key to the set of program data, the data key identifying the set of program data (see abstract, Fig. 7-9 and col. 11, lines 15-37). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include entering a plurality of data items into a database on the computer, and assigning at least one data key to the set of program data, the data key identifying the set of program data as disclosed by Ford within the Peterson system for the motivation of eliminating human error when manually programming an infusion pump (col. 2, lines 2-8 and lines 54-65).

As to claim 2, Peterson discloses the method of claim 1 wherein the acts of: entering a plurality of data items into a database includes entering the plurality of data items into a program data record in the database; and assigning at least one data key to the set of program data includes entering the data key into a data key record and linking the data key record to the program data record (col. 5, lines 27-30).

As to claim 3, Peterson discloses the method of claim 2 wherein the act of assigning at least one data key to the set of program data further includes: entering an identification code selected from the group consisting essentially of a patient I.D., a therapy I.D., and a fluid I.D., wherein the patient I.D. is a code identifying a patient, the therapy I.D. is a code identifying a

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therapy administered using a medical pump, and the fluid I.D. is a code identifying a fluid that is administered using a medical pump (col. 5, lines 56-64)

As to claim 6, Peterson discloses a computer storage medium contain a library of pump data, the computer storage medium be created by the method set forth in claim 1 (i.e. application programs)(col. 4, lines 10-18 and lines 36-53).

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson and Ford as applied to claim 3 above, and further in view of "Acute Health Solutions' DoseWatch to use Multum's MediSource"(hereinafter MediSource).

As to claim 4, Peterson does not explicitly disclose the method of claim 3 wherein the computer is in data communication with a scanner, the method further comprising:

scanning a bar code with the scanner; and

entering the bar code into the computer, wherein the act of assigning at least one data key to the set of program data includes assigning the bar code to the set of program data.

However, MediSource discloses wherein the computer is in data communication with a scanner, the method further comprising:

scanning a bar code with the scanner; and

entering the bar code into the computer, wherein the act of assigning at least one data key to the set of program data includes assigning the bar code to the set of program data (see abstract and

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page 2, paragraph 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the computer is in data communication with a scanner, the method further comprising: scanning a bar code with the scanner; and entering the bar code into the computer, wherein the act of assigning at least one data key to the set of program data includes assigning the bar code to the set of program data as disclosed by MediSource within the Peterson system for the motivation of insure association of the drug and concentration with a pump rate and an infusion amount (see abstract).

As to claim 5, Peterson does not explicitly disclose the method of claim 3 wherein the computer is in data communication with a medical pump, the method further comprising uploading a set of program data items from the pump.

However, MediSource discloses wherein the computer is in data communication with a medical pump, the method further comprising uploading a set of program data items from the pump (see abstract and page 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the computer is in data communication with a medical pump, the method further comprising uploading a set of program data items from the pump as disclosed by MediSource within the Peterson system for the motivation of insure association of the drug and concentration with a pump rate and an infusion amount (see abstract).

As to claim 7-20, the claims are substantially similar to claims 1-6 and are rejected on the same basis.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Pat. No. 6,363,282 discloses remotely accessing medical device systems..

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 6:30 AM to 4:00 PM. In addition, the examiner can be reached on alternate Fridays.

If any attempt to reached the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.



Alexander Kalinowski

Patent Examiner

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March 24, 2003